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COMMISSION ON HUMAN RIGHTS

Forty-seventh session

SUMMARY RECORD OF THE 49th MEETING

Held at the Palais des Nations, Geneva,
on Monday, 4 March 1991, at 10 a.m.

Chairman: Mr. BERNALES BALLESTEROS (Peru)
later: Mr. AMOO-GOTTFRIED (Ghana)

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The meeting was called to order at 10.20 a.m.

STATEMENT BY MR. DE CASTRO VAN-DUNEM, MINISTER FOR FOREIGN AFFAIRS OF ANGOLA

1. The CHAIRMAN gave the floor to Mr. Pedro de Castro Van-Dunem, Minister for Foreign Affairs of Angola and deputy in the Angolan Parliament.

2. Mr. DE CASTRO VAN-DUNEM (Minister for Foreign Affairs of Angola) said that the significant progress noted in the promotion of human rights over the past two years and the creation of a new atmosphere of cooperation and understanding among peoples since the end of the cold war contrasted with other equally striking events: the outbreak or escalation of armed conflicts in some areas of the world and their consequences for the rights and freedoms of civilian populations, and the persistence of situations of occupation and domination which were a flagrant violation of the right to self-determination. He recognized that changes for the better had taken place in some countries, particularly in the third world. For instance, Angola had been pleased to see the public spiritedness displayed by the peoples of Cape Verde and Sao Tome and Principe in their first free elections, which showed that they were capable of resolving their own problems and taking charge of their own destiny. However, political changes in other countries were accompanied by acts of violence which threatened their territorial integrity and the rights and freedoms of their peoples.

3. The South African Government's announcement of the abolition of the three laws which had been considered the basic pillars of the apartheid system was a first step towards the dismantling of that discriminatory and segregationist policy and the establishment of a non-racial, united and democratic society, but it did not mean that apartheid had been abolished in South Africa. For that reason, the Angolan Government considered that the sanctions imposed by the United Nations on South Africa should not be lifted until the apartheid régime had been entirely dismantled.

4. It seemed that, in some parts of the world, States wished to resolve the conflicts between them by force, which jeopardized the international community's efforts to achieve peace. It was thus that one of the most bloody and destructive wars of the last 40 years had broken out in the Gulf, the consequences of which could not yet be predicted. Iraq's illegal occupation of Kuwait showed that many efforts still had to be made in order to guarantee respect for the standards and principles of international law and peaceful coexistence. The Angolan Government welcomed the liberation of Kuwait and the restoration of its territorial integrity, as well as Iraq's acceptance of all the relevant Security Council resolutions. The Angolan Government hoped that a permanent cease-fire agreement would be achieved in order to restore peace to the region. The Government considered that an international conference, attended by all the parties concerned, should be organized with all speed to resolve the problem of the Palestinian people, which was still deprived of its right to self-determination, and the problem of the Arabs living in the territories occupied by Israel.

5. The Angolan Government was pleased to see that the question of Western Sahara was still on the Commission's agenda. It called upon Morocco and Polisario to abide by the agreement of principle which they had reached on 30 August 1988, concerning the holding of a referendum on self-determination for the Saharan people, which would be organized and supervised by the United Nations in cooperation with the OAU.

6. He recalled that the people of East Timor were deprived of their right to self-determination and independence. He wished to assure the Chairman of the Commission of the Angolan Government's support in the search for ways to fulfil the aspirations of the people of the territory, and considered that negotiations between Indonesia and Portugal should be revived.

7. Since the proclamation of Angolan independence, the Angolan Government had spared no efforts to reconstruct the country and improve the living conditions of the Angolan people. Its aim was to establish a democracy and a multi-party system which would guarantee full enjoyment of, and respect for, human rights. But in order to achieve that aim, it was essential to end the war, which had already claimed thousands of victims and destroyed a considerable part of the country's economic and social infrastructure. For that reason, on 20 May 1990, the Government had begun negotiations with UNITA in order to restore peace and thus enable it to concentrate on the economic reconstruction of the country.

8. Despite the goodwill and receptiveness shown by the Government, UNITA had continued its acts of destabilization and sabotage, killing defenceless peasants and kidnapping and holding hostage foreign citizens who were working in various sectors of the economy, thus betraying its intention to seize power by force. Those actions hampered the progress of the democratization process, which was intended to lead to the holding of free and fair elections. By refusing the Government's proposals for a date to be set for a cease-fire, UNITA had shown that it did not want to end the war. Nevertheless, the Angolan Government, for its part, would continue to strive for the restoration of peace in Angola.

9. The effects of the war had been compounded by the drought which had reigned for several years in the central southern part of the country and which made the lives of the people residing in those areas even more difficult. The Angolan Government, concerned by the situation, had appealed to the international community for the creation of a special humanitarian assistance programme for Angola. The United Nations had negotiated with UNITA in an attempt to persuade it not to disrupt the programme. However, UNITA had not hesitated to destroy the road used for the transport of humanitarian aid to the people in need. The Angolan Government had accordingly been obliged to suspend the programme, and would not resume it until UNITA had given an assurance that it would not disrupt the movement of humanitarian aid convoys.

10. In response to the allegations made by certain countries that the plight of the thousands of people in the affected areas was the fault of the Angolan Government, he wished to reaffirm that the Government wished the special humanitarian assistance programme to resume in Angola as soon as it had received the necessary guarantees.

11. Finally, he welcomed the Commission's efforts to guarantee respect for human rights throughout the world.

ADVISORY SERVICES IN THE FIELD OF HUMAN RIGHTS (agenda item 21) (continued) (E/CN.4/1991/5 and Add.1, 54 and Add.1 and 55)

12. Mr. VOLIO JIMENEZ (Expert on Equatorial Guinea), introducing his report (E/CN.4/1991/54 and Add.1), said that he wished to report on the mission to Equatorial Guinea in November and December 1990 by two Spanish legal consultants whom he had chosen, Mr. Sanz Bayón and Mr. Corbí, whose task had been to assist the authorities of Equatorial Guinea in codifying the basic civil and criminal laws and the corresponding procedural laws.

13. The work was progressing well, since the first draft of the general part of the Criminal Code (Vol. 1) and the preliminary section of the Civil Code had already been drawn up and the preparation of the two codes, with the participation of national commissions of jurists, should be completed during 1991. The Code of Civil Procedure and the Code of Criminal Procedure were to be drawn up during 1992, again with the help of the Spanish experts. The experts had noted the complete absence in Equatorial Guinea of any official journal or list of official publications which would allow citizens to familiarize themselves with the laws which had been drafted or promulgated, and had recommended that the State of Equatorial Guinea should be given the resources to publish all the laws adopted since the coup d'état of 3 August 1979 and to register all the practices of customary law so that they could be recorded in written form. Similarly, it would also be necessary to provide regular training, with each stage building on knowledge already acquired, for all court officials; the consultants had chosen nine candidates who would be able to follow a special course of legal training under a bursary programme organized by the Spanish Government. In his opinion, the training programme was essential and a high priority.

14. Moreover, Mr. Sanz Bayón had indicated that the almost complete lack of materials and equipment, the gaps in the training of judges and judicial personnel, the low salaries which encouraged corruption and the lack of independence of judges (who were appointed and dismissed by the President of the Republic) were the main obstacles to the proper working of the judicial system. In order to remedy the situation, it was recommended that, firstly, one or two Spanish officials should be sent to Equatorial Guinea to conduct intensive training courses lasting approximately six months for groups of four or five judicial personnel, chosen from those with the best qualifications, in order to train them in all stages of the various procedures. The officials could subsequently spend two months working in a Spanish court to gain experience. In the case of judges, as a short term measure, one-year refresher courses could be held at the faculty of law or another appropriate university department in order to give them the necessary legal knowledge, including training in moral issues. As a supplementary measure, a judge might be sent to Equatorial Guinea to provide advisory services on the functioning of the courts.

15. The Spanish consultants had also emphasized the urgent need to provide the various judicial bodies with the materials and legal works which they needed to carry out their functions. Mr. Corbí had carried out studies on (a) the notarial system; (b) the land register and the trade register; and (c) the civil register and had drawn up a number of recommendations on their operation or use.

16. Moreover, during their visit to Equatorial Guinea, the two Spanish consultants had collected statements from witnesses and received written information about alleged violations of human rights in the country, which they had conveyed to the Expert on his arrival in Geneva. The consultants had also informed him of the adoption of decree law No. 7/90 on 16 October 1990, which had established the Human Rights Commission of Equatorial Guinea, which was to consider complaints of violations of human rights with a view to the adoption by the Government of appropriate measures to guarantee respect for human rights and compensate victims. However, he did not know the membership of the Commission or whether it had already begun work.

17. He was concerned to note that there was still no appropriate institutional framework for the protection of human rights in Equatorial Guinea, despite the great progress made since 1979. He was aware of the difficulties facing the Government of such a small country, with a very scattered and extremely poor population. The country did not possess the human resources necessary to promote economic and social development and as a result of that, the efforts to improve the human rights situation were impeded. However, he regretted that the Government had not displayed all the political will necessary to implement the Plan of Action which had been drawn up to strengthen the democratic process and thus promote human rights in Equatorial Guinea.

18. The situation was exacerbated by the absence of social organizations, including political parties, which might advance the cause of democracy and human rights, and also by the fact that the Government had made little attempt to encourage exiles to return, although their training might enable them to contribute to the multi-party system essential for representative democracy. That situation was compounded by the fact that there was no system of jurisdictional protection of fundamental freedoms which complied with universal standards, owing largely to the lack of qualified judicial personnel.

19. The Government of Equatorial Guinea had provided no information about its implementation of the recommendations drawn up by himself and by the Commission on Human Rights in resolution 1990/57. The recommendations called upon the Government, among other things, to establish as quickly as possible the commission which would monitor the Plan of Action and to adopt the other measures which had been suggested to promote and protect human rights, to draw up a General Associations Act to facilitate the implementation of the human rights recognized in the International Covenants on Human Rights, which Equatorial Guinea had ratified, and to endeavour to facilitate the repatriation of all refugees and exiles, which would help to resolve in part the shortage of qualified personnel. In addition, Equatorial Guinea had not yet ratified the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Finally, the Government of Equatorial Guinea had not replied to the letter, issued as document E/CN.4/1991/54/Add.1, which he had sent, bringing to its attention a report by Amnesty International, dated 10 January 1991, on the human rights situation in Equatorial Guinea (E/CN.4/1991/NGO/27).

20. In view of the above, he considered that a new strategy should be prepared and that the consideration of the human rights situation in Equatorial Guinea should follow a different model from that used in the past.

21. Perhaps a meeting could be held in Geneva between representatives of the Government of Equatorial Guinea, the Chairman of the Commission on Human Rights and officials of the United Nations Centre for Human Rights, so that they could agree on the new strategy, which might serve as a starting point for more productive relations between the Government and the United Nations. In order to achieve the objectives decided upon under that new approach, his own mandate should be renewed and extended, so that he could consider allegations of human rights violations in Equatorial Guinea and carry out investigations on the spot.

22. In conclusion, he thanked the two Spanish consultants for their valuable contribution and the work they had done during their mission to Equatorial Guinea. He also wished to thank the Spanish Government, which had provided the consultants with the resources they needed to complete their task, and the Government of Equatorial Guinea for the assistance it had given them. Finally, he wished to express his gratitude to the Centre for Human Rights and the staff of the advisory services, particularly Mr. Gómez del Prado, for the help they had given him in carrying out his mandate.

23. Mr. RIETJENS (Belgium) stressed the importance of the programme of advisory services in the field of human rights, a programme which complemented the other components of United Nations action and, more particularly, its monitoring and investigating activities.

24. It was, of course, the responsibility of every State in the first instance to fulfil its obligations in the field of human rights, since the international community could only express its concern openly when those rights were violated and encourage those responsible to correct the situation as quickly as possible.

25. However, while the political will of States to respect their commitments continued to be essential for the promotion and protection of human rights, it was not sufficient; it was also necessary for States to be in a position to act and to know how to apply the provisions of the instruments to which they had acceded. It was in that area that they encountered difficulties.

26. First of all, States did not always have the necessary human resources, the means and the competence to prepare the legislative and statutory texts required for the implementation of the standards laid down in those instruments or the qualified staff to ensure respect for those standards once they had been incorporated into national legislation. Furthermore, States did not always have the resources to prepare the reports they were required to submit to the bodies established under those instruments in order to monitor the way in which Governments were fulfilling their obligations. Providing technical assistance to such States should help to resolve some of those problems. Account must therefore be taken of the "human rights" dimension in the development aid policy for States. Indeed, the close relationship between democracy, human rights and sustained development had become increasingly evident in the context of international economic cooperation, and it was therefore important to promote the preparation of a development aid policy that would also make it possible to ensure the effective enjoyment of human rights.

27. In many developing countries, the minimal institutional infrastructure necessary to enforce the rights of citizens was frequently lacking. An effort must therefore be made to correct that state of affairs both through bilateral programmes and through multilateral cooperation. With regard to the latter, the programme of advisory services of the Centre for Human Rights could play an important role.

28. His delegation welcomed the fact, as indicated in the report of the Secretary-General on the question (E/CN.4/1991/55), that fellowships for training courses financed under the regular budget for the programme of advisory services had been awarded on a priority basis to persons who were or would be directly performing functions affecting human rights and that various workshops, training courses and study progammes had been organized for officials of ministries, the police and prison administration, members of judicial bodies, legislators and law-enforcement officials, trade union leaders and teachers.

29. In his delegation's opinion, the workshops, training courses and internships were perhaps a more effective and economical means of assisting a Government than seminars which were frequently rather theoretical in nature, and it approved the suggestions made in that regard by the chairpersons of the human rights treaty bodies at their third meeting held in Geneva in October 1990.

30. The Belgian delegation also welcomed the continued cooperation between the Centre for Human Rights and regional institutions, since the importance of a regional human rights approach could not be emphasized enough. The exchange of information and experience among the various regions and throughout the United Nations system should make a significant contribution to the effective enjoyment of human rights in the world. In that connection, it should be noted that in resolution 45/167, which it had adopted at the initiative of Belgium, the General Assembly had noted with interest the announcement by the Secretary-General in the proposed medium-term plan for 1992-1997 that efforts would be made to strengthen exchanges between the United Nations and regional intergovernmental bodies dealing with human rights issues and that it might be expected that more countries in all regions of the world would develop forms of cooperation and assistance with the Centre for Human Rights, in keeping with their special needs.

31. In conclusion, his delegation recalled that while they were a useful complement to the United Nations investigating mechanisms, the advisory services could never be a substitute for them. On the contrary, recourse to the advisory services programme should normally not be regarded as a confession by which the requesting Government recognized that the human rights situation in its country was not satisfactory. Therefore, care would also have to be taken to avoid misrepresenting the nature of the advisory services programme by making use of it as a means of pressure or a sanction. Many Governments which might benefit from that valuable assistance might then hesitate to make use of it for fear of giving the impression that they were being "sanctioned".

32. Mr. DITCHEV (Observer for Bulgaria) welcomed the progress made in international cooperation in the field of human rights and the enhanced role played by the Centre for Human Rights in that field. Cooperation and coordination among the various United Nations bodies had also been improved.

33. In that regard, his delegation thanked Mr. Martenson for his valuable assistance in connection with the organization of an international conference at Sofia in January 1991 on human rights in the constitutional and legislative development of Bulgaria, attended by eminent international experts, members of the Bulgarian Parliament and jurists. The conference had helped the Grand National Assembly in its efforts to draft a new constitution; it had also demonstrated the practical value of the advisory services and technical assistance provided by the Centre for Human Rights, particularly in countries engaged in the process of democratization and in the establishment of a new legal system emphasizing international standards in the field of human rights and fundamental freedoms.

34. His Government welcomed the efforts made by the Centre for Human Rights to improve and enhance the programmes for fellowships and training. The programmes were helping to improve the professional qualifications of specialists who came from various national institutions and were concerned with the implementation of international instruments in the human rights field. The Centre also played an exceptionally useful role in the organization of international seminars, such as that which had been held in Geneva in December 1990 on political, historical, economic and social factors contributing to racism, racial discrimination and apartheid and which had been attended by experts from 33 countries and numerous governmental and non-governmental international organizations.

35. In his delegation's view, it would be necessary to examine the functioning of existing control mechanisms within the United Nations system in order to enhance their efficiency and achieve a more satisfactory implementation of the provisions laid down in existing international instruments and agreements.

36. His delegation endorsed the idea of setting up documentation and training centres for specialists in human rights in various countries. It hoped that such a centre could be inaugurated as soon as possible in Sofia. It would thus be possible to strengthen and diversify the cooperation between Bulgaria and the Centre for Human Rights, which would make a substantial contribution to the irreversible process of democratization currently under way in his country.

37. The support which the Republic of Bulgaria lent to the convening of a World Conference on Human Rights testified to the importance which the Bulgarian Government attached to the role of the United Nations in the field of fundamental rights. The Conference should review all positive changes that had occurred over the past few years, make a strong contribution to clarifying the prospects of United Nations strategy aimed at securing the implementation of international commitments undertaken by Member States and promote further the mechanisms used by the Organization in the human rights field. After examining various specific questions, the Conference could also study the role of the Commission on Human Rights and consider the possibility of changing its name in order to reflect more precisely the tasks it would have to tackle in the late twentieth and early twenty-first centuries. His delegation thought that the name of the World Conference on Human Rights should be changed by deleting the word "World". It recalled that with effect from 1992, the Commission would have a membership nearly equal to that of the Economic and Social Council and greater than that of the Conference on Disarmament. His

delegation wished to assure the Commission that his country would continue to contribute to the organization of the World Conference on Human Rights and its successful outcome.

38. His delegation would also like the Commission on Human Rights to meet in other regions and not only in Europe.

39. Lastly, he proposed, on his own behalf and on that of other representatives, that at the beginning of each session of the Commission, following the election of the Bureau, the former and the newly-elected Bureaux should hold working meetings in order to improve the continuity of the Commission's activities.

40. He informed the members of the Commission that his delegation was making available the text of the statement which had been delivered by Mr. Zhelev, the President of the Republic of Bulgaria, before the Council of Europe in January 1991 and in which he had dealt with Bulgaria's foreign policy, including the human rights field. His delegation was confident that international cooperation in that field would remain one of the driving forces for progress and democracy.

41. Mrs. ABOUL-EZZ (Observer for Egypt) considered that the United Nations programme of advisory services was an effective instrument for the promotion and protection of human rights.

42. Her delegation thanked the Secretary-General for the excellent reports he had submitted, in particular his report on advisory services in the human rights field (E/CN.4/1991/55). It also thanked Mr. Martenson for his introduction of agenda item 21 and for his explanations concerning the procedures and services established in order to promote those fundamental rights.

43. She also welcomed the activities undertaken in the context of advisory services, in particular the training seminars which had been held. Those seminars made possible an exchange of information on the implementation of international standards designed to promote and protect human rights and on ways and means of enhancing the effectiveness of existing instruments and mechanisms. She also referred to the International Seminar on Political, Historical, Economic and Social and Cultural Factors contributing to Racism, Racial Discrimination and Apartheid, held at Geneva, from 10 to 14 December 1990. That had been a particularly important meeting, since racial discrimination and apartheid were among the primary factors that gave rise to violations of human rights and fundamental freedoms.

44. Her delegation welcomed the role played by the United Nations Voluntary Fund for Advisory Services and Technical Assistance in the Field of Human Rights, the objective of which was to provide financial support for activities geared to the implementation of the International Covenants on Human Rights and other international human rights instruments. Her delegation called on the industrialized countries to increase their financial contributions to the Fund. Her country also approved the public information campaign, one of the main objectives of which was to help to improve public awareness of the Universal Declaration of Human Rights. All States should combine their efforts to ensure the success of that campaign.

45. In its resolution 45/155, the General Assembly had decided to convene a World Conference on Human Rights in 1993. The first operative paragraph of the resolution set out the objectives of the Conference. Pursuant to paragraph 8 of the text, the Commission had made recommendations to the Preparatory Committee for the Conference, which was scheduled to meet in September 1991. Her delegation hoped that the Committee would examine all ways and means that would make it possible to evaluate what had already been achieved in the field of advisory services and that it would formulate recommendations for developing cooperation in the human rights field through conferences, symposia and seminars organized at the national and regional levels.

46. In conclusion, she stressed the important role played by the Centre for Human Rights. In her delegation's opinion, it would be necessary to increase the financial resources allocated to the Centre, in accordance with the provisions of operative paragraph 1 of General Assembly resolution 45/155.

47. Mr. O'FLOINN (Observer for Ireland) endorsed the basic principle set forth in the report of the Secretary-General (E/CN.4/1991/55) that the provision of advisory services and technical assistance did not diminish a Government's responsibility in the field of human rights. It was to be hoped that the increasing number of requests for advisory services was due to the fact that there was now a greater awareness of the possibilities for cooperation between the United Nations system - and, in particular, the Centre for Human Rights - and Governments in the promotion of human rights.

48. In its three years of existence, the United Nations Voluntary Fund for Advisory Services and Technical Assistance in the Field of Human Rights had done useful work, but, like many other delegations, the Irish delegation had felt for some time that the Fund's activities should be more sharply defined. It was therefore glad to note that the Secretary-General had stated in his report that the resources of the Fund would be allocated, in particular, to finance activities aimed at building or strengthening institutions. That priority, and the guidelines for project formulation prepared in 1990 by the Centre for Human Rights, constituted a new departure for the Voluntary Fund; and the Centre's intention to continue its regular informal meetings with donor and other interested countries was also welcome. Ireland was also pleased to note the emphasis the Secretary-General had placed on intensifying inter-agency coordination within the United Nations system, and particularly wished to encourage the Under-Secretary-General for Human Rights and the Director-General of the International Labour Office to explore ways of enhancing the collaboration between the Centre for Human Rights and the International Labour Organisation. The Secretary-General was also right to stress that close coordination was needed between the activities financed under the programme of advisory services and those to which Governments and non-governmental organizations contributed under the Voluntary Fund.

49. In the run-up to the 1993 World Conference on Human Rights, Ireland wished to stress that the provision of advisory services and technical assistance was a form of cooperation among nations. As it was convinced that human rights, democracy, development and the particular needs of the developing countries were interrelated, it had decided to make a financial contribution to the Voluntary Fund before the end of the Commission's current session. Lastly, Ireland was ready to work with other delegations, before and during the Conference, in examining ways of strengthening advisory services.

50. Mr. URRUELA PRADO (Observer for Guatemala) said that since 1987 the United Nations had been providing his country with advisory services in the field of human rights that had enhanced awareness of those rights in Guatemalan society while dissociating them from the politico-military content that had sometimes been attributed to them. In parallel with the movement towards democracy, a climate of tolerance was developing in a society marked by recent armed conflict.

51. The various aspects of those advisory services had been set forth in detail by the independent Expert responsible for examining the human rights situation in Guatemala, Mr. Tomuschat, in his latest report (E/CN.4/1991/5 and Add.1). If the Guatemalan authorities were to be able to implement the Expert's recommendations, they must have access to still more substantial advisory services, inter alia, to enable them entirely to reconstruct the system of administration of justice and the system for teaching human rights. Political will alone was not enough. It was thus essential to give priority to continuing to assist the judiciary and the Supreme Court of Justice. However, first and foremost, action must be taken with a view to achieving the fundamental goal of ending situations of impunity. Other institutions, such as the Procurator-General's Office, which would be created in conformity with the Expert's recommendations, must be planned on the basis of criteria that were both modern and in accordance with the country's situation. The Ministry of the Interior, which was responsible for the police and criminal administration, should also be assisted with a view to ensuring that its human resources met the standards of democratic States. In all those efforts, international commitments must be respected.

52. Turning to the municipalities and local bodies, which, through a tradition peculiar to Latin America, represented the form of public administration closest to the communities and expressed the popular will at local level, he said that their social function had suffered from the habits bequeathed by the mercantile State of the past and by the traditional procedures of criminal investigation. Advisory services must thus also be provided to municipal officials, particularly where there was a municipal police force or where the mayor performed the functions of a police court magistrate.

53. In conclusion, he wished to thank the Commission and the Centre for Human Rights which were helping his country to construct a system aimed at ensuring the exercise of their rights by all Guatemalan citizens, no easy task when the problems of poverty had also to be solved.

54. Mr. EVEQUOZ (Observer for Switzerland) said that the contribution of SwF 50,000 that his country had made to the Voluntary Fund the previous year, as in 1989, was evidence of the Swiss authorities' conviction that States lacking the appropriate resources must be supported in their efforts to improve their human rights situation.

55. The report of the Secretary-General on the question (E/CN.4/1991/55) revealed that the United Nations advisory services and technical assistance programme had recently shown positive developments in several respects. First, the growing number of requests for support indicated that the programme met a specific need on the part of States, and it also testified to a growing

awareness of that need. Many countries needed substantial aid in order to develop the infrastructures necessary for effective implementation of international standards in the field of human rights.

56. With regard to the management of the advisory services programme, the Centre for Human Rights had made great progress despite its inadequate staff resources. Although there was still room for improvement, the definition of priorities was better than in the past, and it should also benefit from the creation of the advisory group set up to assist the Under-Secretary-General for Human Rights in project identification and coordination with other United Nations bodies, inter alia, through meetings between representatives of the various agencies. Project appraisal had also become more transparent, as a result of application of the guidlines for project formulation and implementation and for preparation of reports. The concrete and objective criteria for appraisal thereby established should lead to better-grounded decisions and make it possible to assess the results of projects financed through the Voluntary Fund.

57. In the field of technical cooperation, the Centre was working more and more closely with the United Nations specialized agencies, including UNDP, UNHCR, ILO, UNITAR and UNICEF. Effective coordination of efforts to ensure fuller respect for human rights and to carry out joint projects for that purpose was indispenable, given the slender financial resources available. Furthermore, the cooperation with regional intergovernmental organizations - particularly the Organization of African Unity - and with non-governmental organizations, referred to by the Secretary-General in his report, should be developed, since it could only improve project quality.

58. For the first time, the Secretary-General was attempting in his report to draw a systematic distinction between activities financed under the regular budget and those dependent on the Voluntary Fund, while stressing that the two types of activity were complementary: projects financed through the Voluntary Fund would be aimed at creating or strengthening regional or national institutions, whereas training activities, seminars, the fellowship programme and the advisory services of experts would continue to be financed through the regular budget of the United Nations. Switzerland considered that such a division would simplify the work of the Centre for Human Rights, appraisal of projects, and their implementation in the field. It should also be stressed once again that advisory services could not be used as a substitute for the monitoring and investigating machinery implemented under item 12 of the Commission's agenda, and that they could only supplement that machinery.

59. Switzerland considered that the programme of advisory services was performing effectively thanks ,to the efforts of the Under-Secretary-General for Human Rights, the Centre for Human Rights, and the donor and receiving countries; its contribution to the Voluntary Fund for the current year would therefore be at least of the same order as the previous year's contribution.

60. Mrs. PRINDEZIS (World Association for the School as an Instrument of Peace) said that her organization was active in promoting and enhancing awareness of human rights and peace, activities whose specific aim was to enable the current generation of children to live in a peaceful world in the future. To enable such an education to develop, in 1984 the Association, in

collaboration with ministries of national education, had created an International Training Centre for Human Rights Peace Teaching (CIFEDHOP), which organized international, regional and national training sessions in human rights and peace teaching every year for teachers.

61. With a view to strengthening human rights promotion activities, particularly through education, and to secure application of article 13 of the International Covenant on Economic, Social and Cultural Rights and of article 29 of the Convention on the Rights of the Child, the advisory services programme should take account of the requests for aid and technical assistance from non-governmental organizations specializing in that field, such as her own organization and CIFEDHOP. Such collaboration would prove how enhancement of awareness of human rights and training therein could become an even more important priority if they were given the necessary resources with which to develop.

62. In cooperation with the United Nations Centre for Human Rights and the Portuguese authorities, in April 1991 CIFEDHOP would be participating in a training session in human rights teaching to be held in Portugal for persons from Angola, Brazil, Cape Verde, Guinea-Bissau, Mozambique and Sao Tome and Principe. The Centre set up by her organization was available to all Governments wishing to organize specialized events of that type.

63. Finally, her organization proposed that the advisory services fellowship programme should be extended to national education officials and teachers other than those in universities wishing to receive training at the CIFEDHOP international and regional sessions with a view to contributing to the development of human rights teaching in their countries. The Voluntary Fund should also finance projects submitted by non-governmental organizations such as her own for the preparation, publication and dissemination of educational material on the international instruments relating to human rights.

64. Ms. BLOCH (Minority Rights Group) said that the advisory services programme could play a vital role in the adoption of new measures aimed at preventing conflicts, inter alia, by contributing at the national level to building up confidence between minority and majority populations and to developing inter-community relations. At the current session, her organization had already had occasion to express its concern at the absence of effective action by the international community in response to persistent violations of rights of minorities.

65. For several years, the Minority Rights Group and other non-governmental organizations had been expressing concern at the situation in Guatemala. It could be seen from the report by Mr. Tomuschat, the independent Expert appointed to study the situation (document E/CN.4/1991/5 and Add.1), that insecurity persisted in Guatemala, where there had been a large number of disappearances and murders during 1990, although the number of actual victims had decreased slightly in comparison with 1989. However, the independent Expert recommended that the Centre for Human Rights should continue to provide Guatemala with advisory services. Mr. Willemsen Diaz, the Expert appointed to assist in drafting a law on the indigenous populations which would develop the

principles set forth in the 1985 Constitution, had stated in the previous year's report (E/CN.4/1990/45 and Add.1) that steps based on the provisions of the Constitution or planned by the Constituent Assembly of 1985 would be of little use if the indigenous peoples and communities continued to be persecuted.

66. The independent Expert, Mr. Tomuschat, recommended in the 1991 report that specific attention must be given to the linguistic rights and the land rights of the indigenous groups, and that a draft law should be prepared setting forth the specific rights of those populations. In his report, Mr. Tomuschat also stated that in 1990 he had met with members of the new Indigenous Communities Commission, who had expressed interest in the preliminary draft law in question. The continuation of gross violations of human rights in Guatemala must not halt the project, as long as the interested parties agreed to implement the linguistic rights and the land rights of the indigenous populations. In his previous year's report (E/CN.4/1990/45 and Add.1), Mr. Tomuschat had stressed that the special legislation to be drafted for the benefit of the indigenous communities must be accompanied by external funding if it was to succeed. Unfortunately, some development projects in Guatemala ran counter to the interests of the indigenous peoples or communities, whereas, in the Expert's view, it was essential that the indigenous peoples and communities should be involved in all initiatives affecting their destiny.

67. With regard to Romania, in his latest report (E/CN.4/1991/30) the Special Rapporteur appointed to study the situation in that country, Mr. Voyame, had been able to identify constructive programmes to promote human rights for the greater good of both the minority and the majority communities.

68. To develop new constructive policies to prevent conflicts, a better understanding was needed of existing legislation and administrative practice at country level. States should thus provide data on the characteristics of the minorities living in their territories, with a description of ways in which they were able to exercise their rights, particularly in relation to: constitutional recognition; protection against incitement to racial, ethnic or religious hatred; participation in government administration at all levels; political representation; participation in the educational system; opportunities to use their mother tongue; opportunities in employment and with regard to land; preservation of traditional hunting grounds and of the environment; ability to move freely across borders and freedom of cultural expression; freedom to establish religious institutions; and the right to express opinions in the mass media. That being said, efforts to improve the protection of minorities must never be allowed to jeopardize inter-community relations.

69. That kind of information should appear in the study on possible ways and means of facilitating the peaceful and constructive solution of problems involving minorities which the Sub-Commission had entrusted to Mr. Eide. Mr. Eide should be able to identify several means of implementing the future declaration on the rights of persons belonging to national or ethnic, religious or linguistic minorities. If advisory services and technical assistance programmes were carried out at the request of Governments with the participation of the peoples and minorities concerned, the bases for a constructive policy for the prevention of conflicts could only be strengthened.

The Minority Rights Group had already had occasion to stress the importance of coordinating advisory services and technical assistance programmes, aid to trade investment and the aid policies of specialized agencies and Governments to assist minorities. The advisory services and technical assistance programme could provide the international community, and in particular the World Bank, the specialized agencies, aid agencies and Governments, with the tools for achieving greater coherence in development projects.

70. Mr. Amoo-Gottfried (Ghana) took the Chair.

71. Mrs. BANDETTINI DI POGGIO (International League for the Rights and the Liberation of Peoples) said that it was a matter for rejoicing to see the international community providing help to those countries which were manifesting their will to progress in the field of human rights. Nevertheless, the advisory services had sometimes been diverted from their original purpose in order to conceal serious violations of human rights and the absence of political will, and also in order to avoid international scrutiny and the appointment of a special rapporteur.

72. Thus, in Guatemala, President Vinicio Cerezo had stated on assuming office on 14 January 1986 that repression belonged to the past and that human rights violations, including those committed by the armed forces, would be severely punished. However, examination of the handling of that country's case by the Commission showed that nothing was changing. In fact, the Commission had already given the benefit of the doubt to the first civilian Government to take power in almost 30 years. Unfortunately, it had turned out in reality that the Government could do nothing to stop institutionalized oppression and that the repressive structures of the armed forces were still entrenched. Now the Commission, for the second time, had granted a kind of reprieve to a newly-elected Guatemalan Government, on the strength of statements of intent and promises whose dubious value was known.

73. Indeed, the report (E/CN.4/1991/5 and Add.1) of the independent Expert on Guatemala, Mr. Tomuschat, showed that nothing had changed substantially in the previous five years and that, despite what had been described in 1986 as "free and democratic" elections, repression continued to claim victims, primarily due to the ruthless grip of the army over the people. It was essential not only to highlight the true causes of that worsening situation but also to indicate how those factors were liable to stand in the way of the structural changes so badly needed in Guatemala. Human rights and fundamental freedoms must not only be affirmed in legislative and constitutional texts, but also reflected in a firm political will to establish a democracy which elections could not in themselves guarantee, particularly when they were used to legitimize civilian Governments owing their allegiance to armed forces which enjoyed total impunity.

74. Many countries were suffering the consequences of the impunity accorded to the armed forces and of a permissive attitude to maintaining existing structures. That was particularly true of Guatemala, where the military still enjoyed great authority. Although President Serrano Elias had made promises to the international community and had claimed that he enjoyed decision-making authority over the army in that he was able to make appointments to certain military posts, it was indisputable that his Government was openly perpetuating

the hegemony exercised by the armed forces over Guatemalan political life for more than 40 years, despite the semblance of constitutionality that had existed since 1986. Since the President had appointed officers from the units responsible for the worst violations to senior posts, and even to positions of the highest seniority, the impunity enjoyed by the forces of repression was continuing, despite the misleading promises made to international public opinion.

75. It was now evident that the situation had further deteriorated since January 1988, the starting date for the implementation of the United Nations advisory services. What else, however, could be expected of a militarized society which felt free to act without fear of penalties? Three years in which the advisory services had proved ineffective should have encouraged the Commission to take a more substantive decision, and the statements of intent by the Guatemalan Government would have been more convincing had it accepted that the situation should be examined under agenda item 12. Moreover, the representatives of the Government had so far failed to explain satisfactorily how violence would be controlled, and, when non-governmental organizations had asked them how the safety of representatives of indigenous communities active within the country and in the Commission would be guaranteed, they had stated that they would communicate that concern to the authorities, but that, since they did not live in Guatemala, they could do little more.

76. The Chairman of the current session, Mr. Bernales Ballesteros, had rightly maintained that humanitarian concern should prevail over political considerations. It was a matter for regret that his advice had not been followed and that the Commission had adopted a clearly political decision which had already had tragic consequences: on 26 February, while President Serrano Elias was celebrating the Commission's decision, an entire family and eight other persons had been massacred, two more kidnapped, and a student had disappeared. The Commission's decision thus sounded like a death sentence for anyone in Guatemala who dared to defend human rights. If the situation was not redressed, those who had refused to listen to the demands of the oppressed for the support of the international community would be liable to be judged by history as accomplices of the criminals with whom they did not wish to be identified.

77. Mr. MOLINA (World University Service) said, in connection with Colombia, that since the advisory services and technical cooperation activities in the field of human rights were supposed to assist Governments without diminishing their responsibilities in that regard, as the Secretary-General had said in his report (E/CN.4/1991/55), their effectiveness was limited, and would only achieve results in the long term. Accordingly, the advisory services had not made it possible to end human rights violations in Colombia, where successive Governments had availed themselves of the state of siege to maintain an atmosphere of arbitrariness which encouraged the violation of those rights by the armed forces and the security forces. Units of those forces arrested civilians without warrant, demolished their homes and held arrested persons incommunicado. It would be appropriate for the Commission to communicate to the Colombian Government its concern at the situation and to consider means of improving it without delay.

78. The case of Guatemala did not fall under item 21, but rather under item 12, since the situation prevailing in that country revealed the existence of a whole range of flagrant and systematic violations of human rights, which was the specific scope of item 12.

79. In Guatemala, State violence prevailed, practised by the armed forces and security forces against dissident opinion so as to prevent the Guatemalan masses, and in particular the indigenous population, from mobilizing in order to bring about the kind of social transformation that had occurred in Eastern Europe. However, even if the army held sway in Guatemala, the civilian Government was not thereby exonerated from its responsibilities.

80. At the same time, the attitude of the Commission was to be regretted in that it had, in full awareness of the facts, opted for intergovernmental solidarity and had decided to consider the case of Guatemala under item 21, as was the attitude of the African and Asian countries, and in particular the non-aligned countries, which had not been willing to show solidarity with the Guatemalan people.

81. He drew the Commission's attention to the contrast between Mr. Tomuschat's report and its addendum. While the former document analysed the situation fairly, in the latter the evaluation no longer corresponded to the facts of the situation. That could be seen, for example, from a comparison between paragraph 148 of the report - in which the Expert condemned the civilian self-defence patrols as unconstitutional - and the addendum, where, paradoxically, he recommended, not that those patrols which, under army supervision, kept more than a million indigenous peasants in subjection, be disbanded, but that there should be regulations for their establishment. The demobilization of those units was one of the principal demands which the Commission should address to the new Guatemalan Government.

82. The statements made by the new Deputy Minister for Foreign Affairs of Guatemala to the Commission were extremely disquieting in that, through him, the Government, like its predecessor, had focused on certain amendments to the texts and their form without undertaking to impose civilian authority on the military apparatus. Moreover, he had attacked those who condemned the inability or impotence of the Guatemalan Government in bringing human rights violations to an end.

83. It was a matter for regret that the Commission had rejected the request addressed to it for the appointment of a special rapporteur under agenda item 12. The World University Service therefore felt it had the moral right to request, on behalf of the great majority of the Guatemalan people, the appointment of an independent expert who would represent the Secretary-General and would be instructed to study the human rights situation in Guatemala, to ascertain the extent to which the recommendations concerning that country and contained in the relevant reports and those to be adopted by the Commission would have been implemented, and also to continue assisting the Government in the human rights field. The expert would submit a preliminary report to the General Assembly at its forty-sixth session, and a final report, containing the requisite recommendations, to the Commission at its forty-eighth session. At that forty-eighth session the Commission would consider the human rights situation in Guatemala under item 12 of its agenda if the situation had not

perceptibly improved, and under item 21 if it had. The situation would be reviewed in the light of the expert's report and the reports of the Working Group on Enforced or Involuntary Disappearances, the Special Rapporteur on torture and the Special Rapporteur on summary and arbitrary executions.

84. Ms. ALEXIU (Latin American Federation of Associations for Relatives of Disappeared Detainees - FEDEFAM) began by pointing out the wide range of activities mentioned by the Secretary-General in his report on the advisory services in the human rights field (E/CN.4/1991/55). However, all that might still be completely ineffective, and the fact of providing those services did not diminish, as many had pointed out, the obligations of Governments.

85. The bodies representing the victims of violations had virtually no participation in the seminars and other meetings organized with United Nations assistance, and the fellowships were for the most part awarded to government representatives. While the contribution of the experts was valuable, the first-hand experience of those who had been personally subjected to the suffering caused by human rights violations should not be ignored. In that connection, many non-governmental organizations wondered whether, after each session, the Commission tried to find out what action had been taken to follow up its decisions. The advisory services should be backed up by action by the Chairman and in general by the Officers of the Commission, who should be vigilant throughout the year and not merely during the sessions. For their part, Governments should facilitate the work of the Centre for Human Rights and the various competent bodies, as the Governments of Costa Rica and Argentina had done, enabling the Working Group on Enforced or Involuntary Disappearances to meet in San José and Argentina respectively, thus making it possible to take stock of the situation directly and to render the work of the United Nations bodies less bureaucratic in character.

86. She asked for priority assistance to be given to the new Haitian Government, whose difficulties with regard to the economic situation and human rights had been inherited from the recent past and had been exacerbated by the fact that a large proportion of the country's population was abroad. The United Nations High Commissioner for Refugees and the International Organization for Migration might adopt a special programme on behalf of that country, thus enabling it to embark on the path to democracy with greater assurance.

87. In connection with Guatemala, she noted that, despite the day-to-day drama of that country's people, a situation of which everyone was aware, it had transpired that some members of the Commission considered that "advisory services in the field of human rights" might be sufficient in that case. In fact, what was needed was that the army and the small ruling political and economic oligarchy should have the political will to permit civilian society to develop as it should. It was symptomatic that a civilian Government should be represented in the Commission by a delegation consisting of both civilian and military elements.

88. She was surprised that in the addendum to his report, Mr. Tomuschat had not mentioned the report submitted to him in person by FEDEFAM. That organization was very disappointed by the decision to study the situation

in Guatemala under item 21. The Commission had thereby given proof of partiality. The victims of political violence in Guatemala were asking, for the future, for their children, that their country should be genuinely helped to escape from the current vicious circle.

89. FEDEFAM wished to make the following proposals with regard to Guatemala: (1) further "on the spot" visits by the Working Group on Enforced or Involuntary Disappearances, particularly in the countryside, where the phenomenon had taken on massive proportions, in order to ascertain whether the Government had taken the requisite preventive and corrective measures; (2) commencement of work of the Commission of Investigation promised by the President of the Republic to the Mutual Support Group (GAM); (3) advisory services in respect of legal anthropology; the Guatemalan Government would request the services of the competent authorities in order to establish scientifically the identity of persons detained and subsequently assassinated by the security forces; (4) ratification by the Guatemalan Government of the International Covenant on Civil and Political Rights and the Optional Protocol; (5) a visit by the Special Rapporteur on summary or arbitrary executions; (6) compliance with the article of the Constitution authorizing those not wishing to do so not to join the civilian defence patrols; (7) immediate measures to give unconditional effect to applications by refugees and displaced persons; (8) respect for the right of association of the families of detained and disappeared persons, and protection of those families against the constant threats to which they were subjected.

90. FEDEFAM also asked the President of the Commission to address an urgent request to the Guatemalan Government to ensure respect for the right to life and physical integrity, and also the right to freedom, of a student - the mother of two children - who, it had just been learned, had been kidnapped.

91. Her organization hoped that the Guatemalan Government would demonstrate that, as the Deputy Minister for Foreign Affairs had in substance said, it had the political will to make significant improvements in the human rights situation and to pursue a firm and lasting peace and social justice. It was not by investigating the fate of disappeared persons and by demanding that justice be done that the stability of the democratic system was undermined, but rather by concealing the truth and allowing the guilty to go unpunished.

92. Ms. REYES (International Federation of Human Rights) considered that the case of Guatemala ought to have been considered under agenda item 12 rather than item 21, which did not deal with a specific situation observed in a particular country. The approach selected distorted the aims of item 21. Although Guatemala had availed itself of advisory services for the last three years, the situation had not improved, and respect for human rights would remain an aspiration as long as the armed forces retained the real power in the country. It was not because of any lack of human rights courses and seminars organized by the United Nations that the security forces continued to violate human rights, it was because the political will to incorporate human rights theory into everyday practice was lacking. The courses had brought no benefits for the victims of the police forces: street children, the peaceful demonstrators of Santiago Atitlán, etc. Nor had they benefited the judiciary, in a country where police officers who had been convicted of torturing and executing students and sentenced to 30 years' imprisonment had been acquitted on appeal "for lack of evidence", and where the families of victims had received death threats which, in some cases, had been carried out.

93. Advisory services could not have any decisive influence over an army which was used to wielding power with violence, an army which could hear without flinching a declaration like that made by General Juan José Marroquín Siliézar to the Kaibiles (élite troops): "The Kaibiles are trained to lose all spirit of humanity and shall henceforth be called masters of war and messengers of death", an army that did not even respect article 3 of the Geneva Conventions and had been guilty of genocide and ethnocide.

94. If the Commission had taken up the case of Guatemala under agenda item 12, it would not have condemned a priori Mr. Jorge Serrano's Government. In fact, by dealing with the case under item 21, it was allowing the armed forces to feel that they were authorized to continue their activities: because the United Nations would not know enough about the human rights violations which took place, that was tantamount to abandoning the victims and backing those responsible for the violations. Setting up a new governmental body to monitor respect for human rights and passing legislation on the civilian self-defence patrols, as Mr. Tomuschat proposed, would not be enough to change a policy which saw force as the only way of responding to popular discontent.

95. The Commission had based its decision on the new Government's promises. It was a questionable decision, but it might still be possible to act and prevent the credibility of the advisory services being diminished even further. If that was to be done, the following steps would be necessary. The Commission must appoint an independent expert whose mandate would be to consider the human rights situation in Guatemala and to submit a preliminary report to the General Assembly followed by a final report before the next session of the Commission. The countries which contributed to the Voluntary Fund for Advisory Services and Technical Assistance should demand that the services produced tangible results. The advisory services should not confine themselves to dealing with governmental bodies, since non-governmental human rights organizations, whose members risked their lives daily, also needed support in order to develop their activities and exercise a right which, after all, was guaranteed to them under article 45 of the Guatemalan Constitution.

96. Mr. Bernales Ballesteros (Peru) resumed the Chair.

97. Mr. EYA-NCHAMA (International Movement for Fraternal Union among Races and Peoples) suggested that the Centre for Human Rights should assist non-governmental organizations as well as States. Human rights were universal; there was no society which would tolerate the murder of children or the enslavement of its nationals by another people. Only dictators doubted that respect for human rights was valid for all cultures. The concept of human rights derived from mankind; to introduce a so-called cultural element into those universal rights was to try to perpetuate slavery and colonialism, external or internal.

98. In Africa, particularly, advisory services in the field of human rights should help to eliminate those evils, which had been introduced to the continent some centuries before and had bequeathed to it a "culture" of slavery and colonialism, and afterwards the contemporary dictatorships. Human rights assistance to an African country should take into account the real problem, which was to replace a colonial legal culture by a legal culture of tolerance and respect for human rights and fundamental freedoms.

99. Since the invasion of Equatorial Guinea by the colonial Power, the people had been allowed to participate in political life only once, on the occasion of the adoption of the 1968 Constitution. Everything else had been imposed upon it, including the present Constitution, dating from 1982. Admittedly, the latter proclaimed human rights, but they were limited as soon as one reached the provisions concerning states of exception, in the second part of the text. In addition, the President of the Republic was omnipotent and was not answerable to any State body. All State institutions were subordinate to him - the Supreme Tribunal, judicial institutions, the Council of State and the National Council for Economic and Social Development. Moreover, he was President of the sole political party of Equatorial Guinea, which nominated candidates for parliament and therefore kept complete control over it.

100. He named a number of well-known people who had been dismissed from their jobs, imprisoned, placed under house arrest or exiled for advocating a multi-party system. That showed that Equatorial Guinea was in the grip of a real dictatorship and one, moreover, in which torture persisted. Would the Expert continue to offer advice to the Government of Equatorial Guinea and close his eyes to the systematic human rights violations it perpetrated?

101. His organization considered that the officials of the advisory services should take a stand against that kind of régime. The laws of dictatorship must be eliminated. And if it was essential to continue to provide Equatorial Guinea with advisory services, at least the Commission should prescribe straightaway that at its forty-eighth session the situation in the country would also be considered under agenda item 12.

The meeting rose at 1.05 p.m.